

**UNITED STATES BANKRUPTCY COURT**

Eastern District of California

Honorable Christopher M. Klein

Bankruptcy Judge

Sacramento, California

**April 26, 2022 at 2:00 p.m.**

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1.	<a href="#">21-23002</a> -C-13	LAWRENCE FUNG	CONTINUED MOTION TO DISMISS
	<a href="#">RDG</a> -3	Eric Schwab	CASE
			1-10-22 [ <a href="#">30</a> ]

**Tentative Ruling:**

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 15 days' notice was provided. Dkt. 33.

<p><b>The Motion to Dismiss is granted, and the case is dismissed.</b></p>
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The Chapter 13 Trustee filed this Motion to Dismiss arguing that cause for dismissal exists because the debtor has not filed an amended plan since the court denied confirmation of the Chapter 13 plan on October 26, 2021.

A review of the docket confirms the proposed Chapter 13 plan was denied confirmation, and no plan is set for confirmation hearing. Dkts. 21, 24.

The Motion also argues debtor is \$5.00 delinquent in plan payments, which is supported by declaration. Dkt. 32.

Failure to confirm a plan and maintain plan payments constitute evidence of unreasonable delay by the debtor that is prejudicial to creditors.

Based on the foregoing, cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1). Furthermore, the court finds that dismissal, and not conversion, is in the best interest of creditors and the Estate. The Motion is granted, and the case is dismissed.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee, Russell Greer, having been presented to the court, and upon review of the pleadings, evidence,

**April 26, 2022 at 2:00 p.m.**

arguments of counsel, and good cause  
appearing,

**IT IS ORDERED** that the Motion to  
Dismiss is granted, and the case is dismissed,  
the court having found that dismissal, and not  
conversion, is in the best interest of  
creditors and the Estate.

**Tentative Ruling:**

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 22 days' notice was provided. Dkt. 52.

**The Motion to Dismiss is granted, and the case is dismissed.**

The Chapter 13 Trustee filed this Motion to Dismiss arguing that cause for dismissal exists because the debtor has not filed an amended plan since the court denied confirmation of the Chapter 13 plan on January 11, 2022.

A review of the docket confirms the proposed Chapter 13 plan was denied confirmation, and no plan is set for confirmation hearing. Dkt. 35.

Failure to confirm a plan and maintain plan payments constitute evidence of unreasonable delay by the debtor that is prejudicial to creditors.

The Motion also argues that the Debtor did not appear at the Meeting of Creditors held pursuant to 11 U.S.C. § 341. Attendance is mandatory. 11 U.S.C. § 343. Failure to appear at the Meeting of Creditors constitutes evidence of unreasonable delay that is prejudicial to creditors, which is cause for dismissal of the case. 11 U.S.C. § 1307(c)(1).

Based on the foregoing, cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1). Furthermore, the court finds that dismissal, and not conversion, is in the best interest of creditors and the Estate. The Motion is granted, and the case is dismissed.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee, Russell Greer, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss is granted, and the case is dismissed, the court having found that dismissal, and not conversion, is in the best interest of creditors and the Estate.

3. [22-20315](#)-C-13 MARK ENOS  
Peter Cianchetta

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
3-21-22 [[28](#)]

**Final Ruling:** No appearance at the April 26, 2022 hearing is required.  
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The court issued this Order to Show Cause because debtor had not paid the fee installment payment due on 3/7/2022. Dkt. 28.

A review of the docket shows that the installment has now been paid. Therefore, the Order to Show Cause is discharged.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Order to Show Cause having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Order to Show Cause is discharged, no sanctions ordered, and the bankruptcy case shall proceed in this court.

4. [22-20135](#)-C-13 RENITA GRAVES-DIXON  
Peter Macaluso

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
3-28-22 [[34](#)]

**Final Ruling:** No appearance at the April 26, 2022 hearing is required.  
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The court issued this Order to Show Cause because debtor had not paid the fee installment payment due on 3/21/2022. Dkt. 34.

A review of the docket shows that the installment has now been paid. Therefore, the Order to Show Cause is discharged.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Order to Show Cause having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Order to Show Cause is discharged, no sanctions ordered, and the bankruptcy case shall proceed in this court.

5. [22-20135](#)-C-13 RENITA GRAVES-DIXON  
Peter Macaluso

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
3-14-22 [[28](#)]

**Tentative Ruling:**

The court issued this Order to Show Cause because debtor had not paid the filing fee installment payment on the due date of 2/22/2022. Dkt. 28.

A review of the docket shows the payment has still not been made. Additionally, the fee installment payment has come due and was not made. Dkt. 42.

Therefore, the Order to Show Cause is sustained, and the case is dismissed.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Order to Show Cause having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Order to Show Cause is sustained, and the case is dismissed.

**Tentative Ruling:**

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 21 days' notice was provided. Dkt. 31.

**The Motion to Dismiss is granted, and the case is dismissed.**

The Chapter 13 Trustee filed this Motion To Dismiss arguing that cause for dismissal exists because the debtor has not filed an amended plan since the court denied confirmation of the Chapter 13 plan on February 8, 2022.

A review of the docket confirms the proposed Chapter 13 plan was denied confirmation, and no plan is set for confirmation hearing. Dkt. 27.

The Motion also argues debtor is \$3,600 delinquent in plan payments, which is supported by declaration. Dkt. 30.

Failure to confirm a plan and maintain plan payments constitute evidence of unreasonable delay by the debtor that is prejudicial to creditors.

Based on the foregoing, cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1). Furthermore, the court finds that dismissal, and not conversion, is in the best interest of creditors and the Estate. The Motion is granted, and the case is dismissed.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee, Russell Greer, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss is granted, and the case is dismissed, the court having found that dismissal, and not conversion, is in the best interest of creditors and the Estate.

**Tentative Ruling:**

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 21 days' notice was provided. Dkt. 31.

**The Motion to Dismiss is granted, and the case is dismissed.**

The Chapter 13 Trustee filed this Motion To Dismiss arguing that cause for dismissal exists because the plan is overextended and will cause the plan to take approximately 67 months to complete. The debtor has failed to object to the priority claim of the Internal Revenue Service or file a modified plan.

The Motion also argues debtor is \$3,520.53 delinquent in plan payments, which is supported by declaration. Dkt. 30.

Failure to modify a plan and maintain plan payments constitute evidence of unreasonable delay by the debtor that is prejudicial to creditors.

Based on the foregoing, cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1). Furthermore, the court finds that dismissal, and not conversion, is in the best interest of creditors and the Estate. The Motion is granted, and the case is dismissed.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee, Russell Greer, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss is granted, and the case is dismissed, the court having found that dismissal, and not conversion, is in the best interest of creditors and the Estate.



**Tentative Ruling:**

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 22 days' notice was provided. Dkt. 26.

**The Motion to Dismiss is granted, and the case is dismissed.**

The Chapter 13 Trustee filed this Motion To Dismiss arguing that cause for dismissal exists because the debtor did not appear at the Meeting of Creditors held pursuant to 11 U.S.C. § 341. Attendance is mandatory. 11 U.S.C. § 343. Failure to appear at the Meeting of Creditors constitutes evidence of unreasonable delay that is prejudicial to creditors, which is cause for dismissal of the case. 11 U.S.C. § 1307(c)(1).

The Motion also argues debtor is \$120 delinquent in plan payments, which is supported by declaration. Dkt. 25.

The Motion further argues that the debtor has not provided all necessary tax returns. 11 U.S.C. § 521(e)(2)(A)(i); FED. R. BANKR. P. 4002(b)(3). That constitutes evidence of unreasonable delay that is prejudicial to creditors, which is cause for dismissal of the case. 11 U.S.C. § 1307(c)(1). The debtor has also not provided all necessary pay advices. 11 U.S.C. § 521(a)(1)(B)(iv); FED. R. BANKR. P. 4002(b)(2)(A). That constitutes evidence of unreasonable delay that is prejudicial to creditors, which is cause for dismissal of the case. 11 U.S.C. § 1307(c)(1).

Failure to maintain plan payments constitute evidence of unreasonable delay by the debtor that is prejudicial to creditors.

Based on the foregoing, cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1). Furthermore, the court finds that dismissal, and not conversion, is in the best interest of creditors and the Estate. The Motion is granted, and the case is dismissed.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are  
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case filed by the Chapter 13 Trustee, Russell  
Greer, having been presented to the court, and  
upon review of the pleadings, evidence,  
arguments of counsel, and good cause  
appearing,

**IT IS ORDERED** that the Motion to Dismiss is granted, and the case is dismissed, the court having found that dismissal, and not conversion, is in the best interest of creditors and the Estate.